

**REMARKS**

Claims 43, 44, 46-54, 56-66, 68, 70-74, and 76 are pending in this application. By this Amendment, claims 43, 46, 47, 56 and 57 have been amended and claims 45, 55, 67, 69, 75 have been canceled without prejudice or disclaimer. Reconsideration in view of the above amendments and following remarks is respectfully requested.

The indication that claims 53, 54, 56-66, 70-74 and 76 are allowable is gratefully acknowledged.

**I. 35 U.S.C. §112, first paragraph**

The Office Action rejects claims 43-52, 55, 67, 69, and 75 under 35 U.S.C. §112, first paragraph. Although Applicants do not acquiesce to the grounds of this rejection, to expedite prosecution claim 43 has been amended and claims 55, 67, 69 and 75 have been canceled without prejudice or disclaimer. Withdrawal of the rejection is respectfully requested.

**II. 35 U.S.C. §112, second paragraph**

The Office Action rejects claims 46, 47, 56 and 57 under 35 U.S.C. §112, second paragraph. Claims 46, 47, 56 and 57 have been amended to clarify the particle size ranges. In particular, Claims 46 and 56 have been amended to recite a range of less than about 500 nm and Claims 47 and 57 have been amended to recite a range of less than about 50 nm. Therefore, reconsideration and withdrawal of the rejection is respectfully requested.

**III. Double Patenting Rejection**

The Office Action provisionally rejects claims 43-76 under the judicially created doctrine of obviousness-type double patenting over claims 42-76 of co-pending Application No. 10/286,968. Although Applicants do not acquiesce to the grounds of this rejection, to expedite prosecution submitted herewith is a Terminal Disclaimer to obviate the rejection. Withdrawal of the rejection is respectfully requested.

**IV. 35 U.S.C. §103(a)**

The Office Action rejects claims 43-44 and 46-52 under 35 U.S.C. §103(a) over Stuetz (U.S. Patent No. 4,397,321). Applicants submit that allowable subject matter of claim 45 has been incorporated into claim 43, therefore claim 43 is allowable. Claims 44 and 46-52 depend therefrom and are allowable for at least the same reasons. Withdrawal of the rejection is respectfully requested.

**CONCLUSION**

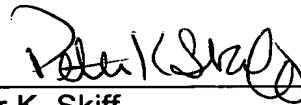
From the foregoing, further and favorable action in the form of a Notice of Allowance is earnestly solicited. Should the Examiner feel that any issues remain, it is requested that the undersigned be contacted so that any such issues may be adequately addressed and prosecution of the instant application expedited.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

Date: February 15, 2005

By: \_\_\_\_\_



Peter K. Skiff

Registration No. 31,917

P.O. Box 1404  
Alexandria, Virginia 22313-1404  
(703) 836-6620